HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

(Division Bench)

CORAM : **HON'BLE SHRI S.R. NAYAK, CJ**
& HON'BLE SHRI SATISH K. AGNIHOTRI, J.

MISC. APPEALNO.469 OF 2005

Appellants

(1) Smt. Mangla Bai, Aged 25 years
W/o Shivkumar Sahu (housewife)

(2) Jitendra Kumar, Aged 5 years
(Minor) S/o late Shiv Kumar Sahu

(3) Kumari Mamta, Aged 2 years,
(Minor) D/o late Shiv Kumar Sahu

(4) Smt. Bhaga Bai, Aged 55 years
W/o Jagdish Sahu

(5) Rishabh Kumar Sahu, Aged 11 months
S/o Shivkumar Sahu,

On behalf of Minor appellants 2, 3 and 5 their mother (next friend) Smt. Mangla Bai.

All R/o Village: Rawabhata, Post Birgaon
P.S. Khamtarai, District: Raipur (CG)

VERSUS

Respondents

(1) Shankarlal Sahu, S/o Sunderlal Sahu
(Driver of Scooty) R/o Village Rawabhata
Near Gaothan, Tahsil & Distt: Raipur (CG)

(2) A.V. Murti S/o A.V. Annajirao
(Owner of the Scooty) R/o Primary Health
Centre, Kurud, Tahsil Kurud,
District Dhamtari (CG).

(3) The United India Insurance Co. Ltd.
Through: Divisional Manager,
Divisional Office, Katcheri Chowk,
Jail Road, Raipur (CG).

Present:

Mr. A.S. Iqbal, learned counsel for the appellants.

ORAL ORDER

(Passed on 28th of November 2005)

The following Order of the Court was passed by

S.R. Nayak, CJ:

In a death case the claimants who are the widow, minor children and parents of the deceased filed an application under Section 163-A of the Motor Vehicles Act, 1988 (*for short "the Act"*). The Tribunal having conducted enquiry has awarded total compensation of Rs.1,79,500/- with interest at the rate of 7% from the date of petition till payment. Not being satisfied with the above compensation, the claimants have preferred this appeal.

(2) We have heard Shri A.S. Iqbal, learned counsel for the appellants. It was contended that the Tribunal has taken the income of the deceased at Rs.15,000/- per annum whereas the deceased was actually earning a sum of Rs.5,000/- as monthly income working as Supervisor in a Petrol Pump. It was also contended that what is awarded towards loss of consortium is very much on lower side.

(3) Having heard learned counsel for the appellant, we are of the considered opinion that what is awarded by the Tribunal is in conformity with the Second Schedule. Admittedly, the application was made under Section 163-A of the Act. Only a sum of Rs.5,000/- could be awarded towards loss of consortium according to the said Schedule. Secondly, although the appellants-claimants claimed that the deceased was earning monthly income of Rs.5,000/-, they have utterly failed to adduce any substantive legal evidence, documentary or oral, to substantiate that claim. In that view of the matter, the Tribunal has taken the notional income of the deceased at Rs.15,000/- per annum and determined the loss of dependency by applying appropriate multiplier having regard to the

age of the deceased. The appeal is devoid of merit. It is accordingly dismissed, however, with no costs.

Sd/-
Chief Justice
Judge

Sd/-
Satish K. Agnihotri
Judge

Brajesh*